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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

Charles Hawkins,	)	No. 1:04-cv-5771-GMS
Plaintiff,	)	
vs.	)	<b>ORDER</b>
United States of America,	)	
Defendant.	)	

Pending before the Court is Plaintiff’s Motion for Objection to the Rescheduling Request by the Government to Modify the Scheduling Order and Motion for the Appointment of Counsel (Dkt. # 77). The Court has already ruled on the Motion to Modify the Scheduling Order and thus the objections are moot. Plaintiff also requests the appointment of counsel because he has limited resources to handle the case.


There is no constitutional right to appointed counsel in a civil case. *See Ivey v. Bd. of Regents of Univ. of Alaska*, 673 F.2d 266, 269 (9th Cir. 1982). The Court, however, does have the discretion to appoint counsel in “exceptional circumstances.” *See* 28 U.S.C. § 1915(e)(1); *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Aldabe v. Aldabe*, 616 F.2d 1089, 1093 (9th Cir. 1980). “A finding of exceptional circumstances requires an evaluation of both ‘the likelihood of success on the merits and the ability of the petitioner to articulate his or her claim *pro se* in light of the complexity of the legal issues involved.’” *Wilborn*, 789 F.2d at 1331(quoting *Weygant v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)); *see Richards v. Harper*, 864 F.2d 85, 87 (9th Cir. 1988). “Neither of these

1 factors is dispositive and both must be viewed together before reaching a decision on  
2 request of counsel” under section 1915(e)(1). *Wilborn*, 789 F.2d at 1331.

3 Having considered both factors, the Court finds that Plaintiff has not demonstrated  
4 a likelihood of success on the merits or that any difficulty he is experiencing in attempting  
5 to litigate his case is due to the complexity of the issues involved. While Plaintiff has  
6 pointed to limited resource difficulties that he is experiencing, such difficulties do not make  
7 his case exceptional. Accordingly, at the present time, this case does not present  
8 “exceptional circumstances” requiring the appointment of counsel. Therefore,

9 **IT IS HEREBY ORDERED** denying Plaintiff’s Motion for Objection as moot and  
10 Plaintiff’s Motion for Appointment of Counsel (Dkt. # 77).

11 DATED this 2nd day of October, 2009.

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G. Murray Snow  
United States District Judge

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